IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 151 OF 2003

Citizen Welfare Educatin Society
Malegaon & Ors. ...Petitioners

Versus

State of Maharashtra & Ors. ...Respondents

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Mr. Girish Kulkarni with Mr. Joshi with Mrs. Sonali A. Joshi, counsel for Petitioners

Mr. A.H. Palekar, A.G.P. for Respondents 1 & 2.

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CORAM: B. H. MARLAPALLE, J.

DATED: 28TH FEBRUARY, 2005

P. C.:-

1. Heard the learned counsel for the petitioner society which alleges that the order passed by this Court in writ petition No. 5197 of 2002 on 13.9.2002 has been willfully violated by the respondents and thus, they have committed the contempt of this Court within the meaning of Section 2(b) of the Contempt of Courts Act, 1971.

2. At the threshold it needs to be noted that the respondents are not named i.e. they are not impleaded by name and on that ground only this contempt petition cannot be entertained.

3. Even otherwise, it was stated by the petitioners before this Court on 13.9.2002 that the application submitted by them for permission to open new College and was recommended by the concerned University had remained pending since 1995 and it was on the basis of this statement the direction was issued to the State Government to decide the application in accordance with law within eight weeks from 13.9.2002. The Joint Director of Higher Education Pune Region at Pune has filed affidavit in reply and stated that the application submitted by the petitioners was decided in October, 1996 itself and the decision was communicated to all Universities in the State vide order dated 11.10.1996. Alongwith the order, a list of Institutions which were granted permission to open new Colleges as well as affiliations was enclosed and it was informed that the applications of all other institutions were rejected. The Petitioner was informed accordingly by communication dated 28.11.2002 that its application was not any more on the file and it was decided in October, 1996 itself.

4. The learned counsel for the petitioners submitted that its application was required to be decided as per law and the order dated 11.10.1996 does not disclose any reasons. If the Division Bench which decided the writ petition No.5197 of 2002, was aware

that the application submitted by the petitioners was already decided, it would not given any further directions and the petition could have been rejected. Under such circumstances, the petitioner cannot allege that the respondents are in contempt and there is no prima facie case to take cognizance of such alleged contempt.

5. The contempt petition is, therefore, rejected summarily.